

## **REMARKS**

Applicant respectfully requests consideration of the subject application as amended herein. This Amendment is submitted in response to a Non-Final Office Action mailed on December 15, 2004. Claims 1-45 are rejected. Claims 2, 9, 12, 27, 32, 41, 43, and 45 have been cancelled without prejudice. Thus, claims 1, 2-8, 10, 11, 13-26, 28-31, 33-40, 42 and 44 are pending.

Examiner rejected claims 2, 9, 12, 27, 32, 41, 43, and 45 as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicants regard as the invention. Applicant respectfully submits that since claims 2, 9, 12, 27, 32, 41, 43, and 45 have been cancelled, the rejection is now moot.

### **Claim Rejections under 35 U.S.C. § 102(e)**

Examiner rejected claims 1, 3-8, 10-11, 13, 16, 19, 23-26, 31, 33-34, 36, 40, 42, and 44 as being anticipated by Bugnion et al issued on Dec. 17, 2002. (U.S. Patent No. 6,496,847, hereinafter "Bugnion"). Applicant does not admit that Bugnion is prior art and reserves the right to swear behind the reference at a later date. Regardless, Applicant respectfully submits that claims 1, 3-8, 10-11, 13, 16, 19, 23-26, 31, 33-34, 36, 40, 42, and 44 are not anticipated by Bugnion.

Bugnion discloses virtualizing a computer system by switching between a context saved in the host operating system and a corresponding context saved in the virtual machine monitor. The host operating system context is saved on a driver, which is implemented in the host operating system.

### **Claims 1, 3-7**

Claim 1 recites "implementing a driver of the soft device in a virtual machine monitor." Bugnion discloses implementing the driver in the host operating system, which is not the same as implementing a driver in the virtual machine monitor. Accordingly, independent claim 1 and associated claims 3-7 are not anticipated by Bugnion.

### **Claims 8, 10**

Claim 8 recites "the virtual machine monitor including a driver of the soft device." Bugnion discloses implementing the driver in the host operating system, which is not the

same as implementing a driver in the virtual machine monitor as claimed. Accordingly, claim 8 and dependent claim 10 are not anticipated by Bugnion.

#### Claims 11, 13, 16, 19, 23-25

Claim 11 recites implementing a software component of the soft device in a first virtual machine. Bugnion discloses implementing the driver in the host operating system, which is not the same as implementing a software component in the virtual machine. Accordingly, Applicant respectfully submits that independent claim 11 and associated claims 13, 16, 19, 23-25 are not anticipated by Bugnion under 35 U.S.C. § 102(e).

#### Claim 26

Bugnion discloses implementing the driver in the host operating system, and does not teach or suggest implementing software components of the soft device in a plurality of dedicated virtual machines as recited by claim 26. Accordingly, Applicant respectfully submits that independent claim 26 is not anticipated by Bugnion.

#### Claims 31, 33-34 and 36

Bugnion does not teach or suggest a plurality of virtual machines including one or more dedicated virtual machines, in which one or more software components of a soft device are implemented, as recited by claim 31. Thus, independent claim 31 and associated claims 33-34 and 36 are not anticipated by Bugnion.

#### Claim 40

Claim 40 recites implementing a driver of the soft device in a virtual machine monitor. As Bugnion does not teach or suggest this limitation, independent claim 40 is not anticipated by Bugnion.

#### Claim 42

Claim 42 recites implementing a software component of the soft device in a first virtual machine. As Bugnion does not teach or suggest this limitation, independent claim 42 is not anticipated by Bugnion.

#### Claim 44

As Bugnion does not teach or suggest implementing software components of the soft device in a plurality of dedicated virtual machines, claim 44 is not anticipated by Bugnion.

#### **Claim Rejections under 35 U.S.C. § 103(a)**

The Examiner rejected claims 2, 9, 12, 27, 32, 41, 43, and 45 as being unpatentable under 35 U.S.C. § 103(a) over Bugnion in view of alleged knowledge in the art. Applicant respectfully submits that since claims 2, 9, 12, 27, 32, 41, 43, and 45 have been cancelled, this rejection is moot.

The Examiner rejected claims 14-15, 17-18, 20-22, 29-30, 35, and 37-39 as being unpatentable over Bugnion in view of Lim et al issued on Sep. 21, 2004. (U.S. Patent No. 6,795,966, hereinafter "Lim"). Applicant does not admit that Lim is prior art and reserves the right to swear behind the reference at a later date. Regardless, Applicant respectfully submits that Bugnion and Lim, either individually or in combination, do not teach or suggest each and every limitation of the rejected claims.

Lim discloses restoring, porting, replicating and check pointing computer systems using computer state information. The state information is extracted by check pointing states of virtual machines under control of a virtual machine monitor. Lim does not teach or suggest implementing a software component of the soft device in a first virtual machine as claimed.

#### Claims 14-15, 17-18, and 20-22

Lim does not teach or suggest implementing a software component of the soft device in a first virtual machine as claimed in independent claim 11. As neither Bugnion nor Lim teach this limitation of independent claim 11, the combination does not render dependent claims 14-15, 17-18, and 20-22 obvious.

#### Claims 29-30

Lim does not teach or suggest implementing software components of the soft device in a plurality of dedicated virtual machines as claimed in claim 26. As neither Bugnion nor Lim teach this limitation of independent claim 26, the combination does not render dependent claims 29-30 obvious.

Claims 35, 37-39

Lim does not teach or suggest that the software components of the soft device are implemented in one or more dedicated virtual machines as claimed in claim 31. As neither Bugnion nor Lim teach this limitation of independent claim 31, the combination does not render dependent claims 35 and 37-39 obvious.

**SUMMARY**

Accordingly, Applicant respectfully requests the withdrawal of the rejections and submits that pending claims 1, 2-8, 10, 11, 13-26, 28-31, 33-40, 42 and 44 are in condition for allowance. Applicant respectfully requests reconsideration of the application and allowance of the pending claims.

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Marina Portnova at (408) 720-8300.

**Deposit Account Authorization**

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicant hereby requests such extension.

Respectfully submitted,

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Dated: 3-14, 2005

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